REMARKS

This amendment is in response to the Official Action dated October 15, 2009. Claims 1 and 4 have been amended and Claims 3 and 10-14 have been cancelled. The application now includes Claims 1, 2, 4-9 and 15 with Claim 1 being the only independent claim. Favorable reconsideration, in view of the above amendments and accompanying remarks, is respectfully requested.

Attached to this Amendment is an Declaration under 37 C.F.R. 1.131 of Danny R. Milot which states that the invention, as defined in the presently pending Claims 1, 2, 4-9 and 15 and of the instant application per this amendment, was conceived in this country prior to the October 24, 2003 filing date of the Mancuso et al. U.S. Patent No. 7,404,317 coupled with due diligence from prior to said date to the filing of the present application. As will be discussed below, the Declaration is used to remove the Mancuso et al. patent as prior art relative to Claim 1.

In paragraph 2 of the Official Action, Claim 1 has been rejected on the ground of nonstatuatory obviousness-type double patenting as being unpatentable over Claim 2 of U.S. Patent No. 7,165,008 B2 in view of Clark (US 2005/0033549 A1). Being filed concurrently herewith is a terminal disclaimer to overcome this rejection.

In paragraph 14 of the Official Action, the Examiner has rejected Claims 3 and 4 under the provisions of 35 U.S.C. 103(a) as being unpatentable over Watson (US 7057503 B2) in view of Yeh et al. (US 6542073 B2) and Clark (US 2005/0033549 A1) and further in view of Mancuso et al. (US 7404317 B2). In this rejection, the Examiner used Mancuso et al. to teach the subject matter recited in Claim 3. This rejection is respectfully traversed for the following reasons.

Claim 1 has been amended to include the limitation from Claim 3 (which has been cancelled), and now recites the limitation "wherein the measured tire load, which is used in determining the rollover index, is determined by measuring a length of a contact patch of a vehicle tire and measuring changes to the contact patch length". As discussed above, it is believed that the attached Declaration removes the Mancuso et al. patent as prior art relative to presently pending Claim 1 of

the instant application. Accordingly, it is believed that Claim 1, along with dependent Claims 2, 4-9 and 15, are patentable over the cited references.

The remaining rejections set forth in the Official Action are either overcome and/or moot in view of the above amendments to the claims.

In view of the above amendments and accompanying remarks, it is believed that the application is in condition for allowance. However, if the Examiner does not believe that the above remarks and amendments place the application in condition for allowance, or if the Examiner has any comments or suggestions, it is requested that the Examiner contact Applicants' attorney at (419) 255-5900 to discuss the application prior to the issuance of an action in this case by the Examiner.

Respectfully submitted,

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